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Kelly K Kordzik
100 Congress Avenue
Suite 800
Austin, TX 78701

EXAMINER
GORT, ELAINE L

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GROUP 3600

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/679,781
Filing Date: October 05, 2000
Appellant(s): DUNSMORE ET AL.

Gerald H. Glanzman
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed October 25, 2004.

(1)   Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2)   Related Appeals and Interferences

The brief does not contain a statement identifying the related appeals and

interferences which will directly affect or be directly affected by or have a bearing on the

decision in the pending appeal is contained in the brief. Therefore, it is presumed that

there are none. The Board, however, may exercise its discretion to require an explicit

statement as to the existence of any related appeals and interferences.

(3)   Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4)   Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection

contained in the brief is correct.

(5)   Summary of Invention

The summary of invention contained in the brief is correct.

(6)   Issues

The appellant's statement of the issues in the brief is correct.

(7)   Grouping of Claims

Appellant's brief includes a statement that claims 29-40 and 55-69 do not stand

or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8)   Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9)   Prior Art of Record

| 4530067 | DORR | 6-1985 |
| 5933812 | MEYER et al. | 8-1999 |

(10)   Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 29-40 and 55-69 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Dorr (US Patent 4,530,067) in view of Meyer et al. (US Patent

5,933,812).

The following rejection is set forth in a prior Office Action, mailed on November

2003.

Claims 29-40 and 55-69 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Dorr (US Patent 4,530,067) in view of Meyer et al. (US Patent

5,933,812).

Dorr discloses a restaurant ordering and payment system with a waiter's terminal

for taking orders from a plurality of patrons at a table which conveys the information to a

waiter's terminal (e.g. the computer system tracking the orders and calculating the bill);

the ability to pay at the table; a display showing the amount due and ability to do

separate checks with credit cards via the system which allows a first portion based on a

first patron to make a payment; and calculation of a balance owed and allowing

subsequent patrons at the same table to pay until the table's remaining balance is zero.

Dorr discloses the claimed device except for the payment unit being physically

located at the table. Meyer et al. discloses that it is old and well know in the art of

restaurant billing and ordering to physically locate payment units at the table in order to

allow customers to get the bill when they want it and pay at their convenience and to

reduce the burden on the wait staff. It would have been obvious to one having ordinary

skill in the art at the time the invention was made to provide the system of Dorr with a

payment device located at the tables as taught by Meyer et al., in order to provide

convenience to customers and to alleviate the burden on wait staff.

Regarding the particular algorithm of calculating a total bill, subtracting each

customer's payment until the balance is zero Examiner takes official notice that it is

notoriously old and well known in the art of accounting to track amounts owed by

reducing the amount owed by the amount paid until the amount is fully paid in order to

track the customer's debt and to know when the customer has paid all their debt.

Therefore it would have been obvious to provide the system as modified above with the

claimed algorithm of reducing the total by the partial payments and tracking the amount due until it reaches zero in order to know when the customer has paid all their debt.

Regarding colored lamps to indicate if full payment is made, the use of indicators are notoriously old and well know in the art of data processing to indicate to users some important state, such as full or incomplete payment of the bill, and would have been obvious at the time of the invention to prevent patrons from walking off without paying.

Touch-sensitive screens are also notoriously old and well known in the art of data processing and data entry to allow users to simply touch the item they wish to activate on the screen which provides an extremely user friendly interface and would have been obvious at the time of the invention to provide patrons with an easy customer friendly interface.

Regarding display of a list of items, Dorr indicates that the system orders by number or may provide two-way communication with a central processor includes a keyboard, a display, and a memory. Although it does not clearly state that it is capable of displaying a list of items it indicates it has access to a processor that could inherently include a list of food items. If it is not found to inherently include displaying a list of items, Examiner takes official notice that providing a listing of items is notoriously old and well known in the art of restaurant service ordering in order to make it easier for the waiter or waitress to place the order for a customer.

Regarding selecting items within the total to determine the amount of partial payment is notoriously old and well known in the art of restaurant services to calculate the amount from a total bill which each guest at a table owes.

All other claimed limitations are either disclosed or inherent.

(11) Response to Argument

1. Calculation of a Running Balance – Claim 29

Appellant has argued that neither Dorr nor Meyer suggest the calculation/algorithm of a running balance taking into account patron's partial payments. Examiner has noted that Dorr discloses capabilities to split checks in column 15 lines 29+ and has taken Official Notice in the Final Office Action in paragraph 2 of page 3 stating that that it is notoriously old and well known in the art of accounting to track amounts owed by reducing the amount owed by the amount paid until the amount is fully paid in order to track the customer's debt and to know when the customer has paid all their debt. The Examiner therefore contends it would have been obvious to provide the system of Dorr and Meyer with the claimed algorithm of reducing the total by the partial payments and tracking the amount due until it reaches zero in order to know when the customer has paid all their debt.

Although Appellant had not contested the above Official Notice, the Examiner provided in the Final Action a reference and discussion to back the Official Notice taken. The reference provided is Introduction to Accounting, page 319 which discusses the tracking of payments on accounts due to an organization (accounts receivable) and it illustrates a total being reduced by payments and tracking of a balance due.

2.   Entry of Payments by Customer - Claim 29

Appellant has argued that neither Dorr nor Meyer suggest where the customers

can split the bill. Examiner contends that Dorr teaches where customers can split the

bill via remote entry of credit cards for separate checks into the waiter's terminal

(column 15 lines 25-44) and the Examiner has used Meyer to teach the capability of

separating the remote payment functions from the waiter's terminal into a payment unit

provided at the table (column 3 lines 6+) that allows customers to carry out the payment

functions independent of the waiter's service. Since the Dorr reference teaches the

capability of determining separate checks this capability would then be possible on the

customer's payment unit of the revised system. Examiner further took Official Notice of

the algorithm of tracking the payments on the account to zero which would be carried

out for the customers on the payment unit.

3.   Displaying of Amount Due – Claim 29

Appellant has argued that neither Dorr nor Meyer suggest the payment unit

displaying the total amount and balance owed on a display screen. Examiner contends

that Dorr teaches a waiter's terminal with a display showing an amount due (column 16

line 31) on a display and the capability to split the bill (column 15 lines 25-44) and the

Examiner has used Meyer to teach the capability of separating the remote payment

functions from the waiter's terminal into a payment unit provided at the table (column 3

lines 6+) that allows customers to carry out the payment functions independently which

would incorporate this capability to display the amount due to the paying customer.

Since the Dorr reference teaches the capability of determining separate checks and viewing totals this capability would then be possible on the customer's payment unit of the revised system. Examiner further took Official Notice of the algorithm of tracking the payments on the account to zero which would be carried out and displayed for the customers on the payment unit.

4.   Running Balance Reduced by Each Patron's Payment – Claim 55

Appellant has argued that neither Dorr nor Meyer suggest the payment unit generating and displaying a running balance. Examiner contends that Dorr teaches a waiter's terminal with the capability to generate and display an amount due (column 16 line 31) and the capability to split the bill (column 15 lines 25-44). The Examiner then used Meyer to teach the capability of separating the remote payment functions of the waiter's unit into a payment unit provided at the table (column 3 lines 6+) that allows customers to carry out the payment functions independently which would incorporate Door's capability to generate and display the amount due to the paying customer. Since the Dorr reference teaches the capability of determining separate checks and viewing totals this capability would then be provided on the customer's payment unit of the revised system. Examiner further took Official Notice of the algorithm of tracking the payments on the account to zero which would then be carried out and displayed for the customers on the payment unit.

5.   _Touch-sensitive screen – Claims 39 and 64_

Appellant has not argued that touch-sensitive screens are not old and well know

for providing a friendly interface but appears to be arguing that it is not obvious to

provide touch screens in place of the display and keys on the payment unit. Examiner

has taken Official Notice that touch-sensitive screens are also notoriously old and well

known in the art of data processing and data entry to allow users to simply touch the

item they wish to activate on the screen in order to provide a user friendly interface and,

therefore, that it would have been obvious to one of ordinary skill in the art at the time of

the invention to provide patrons with an easy customer friendly interface on the payment

unit.

6.   _Customer Ability to Pick Items to Pay For – Claims 40, 65, 67 and 69_

Appellant has argued that neither Dorr nor Meyer suggest a touch-sensitive

screen which provides customers the ability to pick items to pay for. See argument

above regarding touch-sensitive screens. Examiner contends that Dorr teaches a

waiter's terminal with the capability to pick items for a customer to pay for as it has the

capability to split bills (column 15 lines 25-44). The Examiner then used Meyer to teach

the capability of separating the remote payment functions of the waiter's unit into a

payment unit provided at the table (column 3 lines 6+) which would provide customers

the ability to carry out the payment functions of Dorr independently. Since the Dorr

reference teaches the capability of determining separate checks which allows

customers to pick items to pay for and the viewing of totals this capability would then be

provided on the customer's payment unit of the revised system. Examiner has modified

this display to have a touch-sensitive screen to carryout the functions of both Dorr and

the Examiner's Official Notice of the balance tracking algorithm.

7.   Transmission of Data When the Balance Owed is Equal to Zero – Claim 30

Appellant has argued that neither Dorr nor Meyer suggest the transmission of

credit card data *once* the balance owed is equal to zero. Examiner contends that Dorr

teaches the transmission of credit card data *when* the balance owed is equal to zero.

For example if a table has a bill of $20 then the final transmission of the last customer

paying is sent when the customer inputs their credit card and approves it for the final

payment amount that makes the balance due equal to zero. It appears the Appellant is

arguing a limitation that does not exist in the claim. The claim does not limit itself to

ONLY sending credit card data for payment when the balance owed is equal to zero.

8.   Indicators – Claims 33, 34, 58 and 59

Appellant has not argued that colored lamps as indicators are not old and well know to

indicate to users some important state, such as full or incomplete payment of the bill but

appears to be arguing that it is not obvious to provide colored lamps as indicators on the

system as modified. Examiner has taken Official Notice that the use of indicators are

notoriously old and well know in the art of data processing to indicate to users some

important state, such as full or incomplete payment of the bill, and would have been

obvious at the time of the invention to prevent patrons from walking off without paying.

Therefore, the Examiner contends that it would have been obvious to one of ordinary

skill at the time of the invention to provide colored lamps on the payment unit of the

system of Dorr as modified in the final action by Meyer and Examiner's Official Notice of

the claimed algorithm and touch-sensitive displays, to indicate payment status to

prevent customers from walking out the door without paying.

9.   Limitations of Claims 31, 32, 35-38, 56, 57, 60-63, 66 and 68

Appellant has argued that the Examiner has failed to provide a prima facie case of

obviousness of these claims' limitations as they establish points of novelty not present

in the prior art. Examiner contends that precise mapping out of each and every claim

limitation is not required to make a prima facie case of obviousness and that these claim

limitations do exist in the combination of references and Official Notice taken. 37 CFR

CFR 1.111(b) states that "The reply by the applicant or patent owner must ... distinctly

and specifically

point[] out the supposed errors in the examiner's action ....". The Appellant's assertion

does not distinctly and specifically point out the inventive features missed by the

Examiner.

10.   Motivation to Combine References - Claims 29-40 and 55-65

Appellant has argued that the there is no motivation to combine Dorr and Meyer.

The examiner recognizes that obviousness can only be established by combining or

modifying the teachings of the prior art to produce the claimed invention where there is

some teaching, suggestion, or motivation to do so found either in the references

themselves or in the knowledge generally available to one of ordinary skill in the art.

See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958

F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Meyer is used to teach

placing the payment capability of Dorr (which includes Dorr's capability of calculating

separate checks) at the table in order to allow customers to pay the bill themselves.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Elaine Gort
Examiner
Art Unit 3627

February 16, 2005

Conferees:
    Tariq Hafiz
    Robert Olszewski

ROBERT P. OLSZEWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

Kelly K Kordzik
100 Congress Avenue
Suite 800
Austin, TX 78701